

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

T.D.H. also known as MS. HENDERSON, Plaintiff, v. KAZI FOODS OF NEW JERSEY, INC., <i>et al.</i> , Defendants.	: : : : : : : : : : :	 Civil No. 5:23-cv-00634-JMG
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ORDER

AND NOW, this 17th day of July, 2023, upon consideration of the Motion to Dismiss of Defendants Kazi Foods of New Jersey, Inc. (“Kazi Foods”), Nerieda “Gigi” Garcia, Wanda Rivera, and Yomi Santana (ECF No. 5), and Plaintiff’s Response in Opposition thereto (ECF No. 6), **IT IS HEREBY ORDERED** that Defendants’ Motion (ECF No. 3) is **GRANTED IN PART** and **DENIED IN PART** as follows:

1. Defendants’ Motion to Dismiss Count I, for unlawful discrimination under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000(e) *et seq.*, against all Defendants is **GRANTED IN PART** and **DENIED IN PART**:

- a. Defendants’ Motion to Dismiss Count I against Defendant Kazi Foods is **DENIED**.
- b. Defendants’ Motion to Dismiss Count I against Defendants Nerieda “Gigi” Garcia, Wanda Rivera, and Yomi Santana is **GRANTED**.

2. Defendants’ Motion to Dismiss Count II, for disparate treatment under Title VII against all Defendants, against all Defendants is **GRANTED IN PART** and **DENIED IN PART**:

a. Defendants' Motion to Dismiss Count II against Defendant Kazi Foods is **DENIED**.

b. Defendants' Motion to Dismiss Count II against Defendants Nerieda "Gigi" Garcia, Wanda Rivera, and Yomi Santana is **GRANTED**.

3. Defendants' Motion to Dismiss Count III, for harassment quid pro quo under Title VII against all Defendants, is **GRANTED IN PART** and **DENIED IN PART**:

a. Defendants' Motion to Dismiss Count III against Defendant Kazi Foods is **DENIED**.

b. Defendants' Motion to Dismiss Count III against Defendants Nerieda "Gigi" Garcia, Wanda Rivera, and Yomi Santana is **GRANTED**.

4. Defendants' Motion to Dismiss Count IV, for harassment quid pro quo under Title VII against all Defendants is **GRANTED IN PART** and **DENIED IN PART**:

a. Defendants' Motion to Dismiss Count IV against Defendant Kazi Foods is **DENIED**.

b. Defendants' Motion to Dismiss Count IV against Defendants Nerieda "Gigi" Garcia, Wanda Rivera, and Yomi Santana is **GRANTED**.

5. Defendants' Motion to Dismiss Count V, for unlawful retaliation under Title VII, against all Defendants is **GRANTED IN PART** and **DENIED IN PART**:

a. Defendants' Motion to Dismiss Count V against Defendant Kazi Foods is **DENIED**.

b. Defendants' Motion to Dismiss Count V against Defendants Nerieda "Gigi" Garcia, Wanda Rivera, and Yomi Santana is **GRANTED**.

6. Defendants' Motion to Dismiss Count VI, for violation of 42 U.S.C. § 1981 against all Defendants, is **GRANTED**.

7. Defendants' Motion to Dismiss Count VII for Intentional Infliction of Emotional Distress against all Defendants, Count VIII for assault against Defendant Garcia, and Count IX for battery against Defendant Garcia is **DENIED**.

BY THE COURT:

/s/ John M. Gallagher
JOHN M. GALLAGHER
United States District Court Judge